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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Resumed session

Summary record of the 9th meeting

Held at Headquarters, New York, on Thursday, 18 June 2009, at 10 a.m.

Chairman: Mr. Natalegawa ..... (Indonesia)

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The meeting was called to order at 10.20 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of the Falkland Islands (Malvinas) (A/AC.109/2009/13; A/AC.109/2009/L.8)

2. **The Chairman** informed the Committee that the delegations of Argentina, Brazil, El Salvador, Guatemala, Honduras, Paraguay, Peru and Uruguay had indicated their wish to participate in the Committee's consideration of the item.

Hearing of petitioners

3. *At the invitation of the Chairman, Mr. Stevens and Ms. Robertson (Legislative Assembly of the Falkland Islands) took places at the petitioners' table.*

4. **Mr. Stevens** (Legislative Assembly of the Falkland Islands) said that the individuals who had shaped the 176-year history of the Falkland Islands had left behind a living legacy. He evoked the achievements and memories of the first inhabitants and of their descendants, many of whom were currently working and living in the islands. Some of the earliest settlers had come from Scotland as shepherds; some had been merchants who had plied their trade on local schooners; many had been Scandinavian and German mariners driven there by storms or wrecked on the rocky shores; for a large number of their descendants, agriculture had replaced the sea as a profession.

5. The inhabitants of the Falkland Islands had chosen to live their lives and build a future there. Far from being an itinerant, transplanted people shipped in by the British, as claimed by Argentina, they had originally hailed from a variety of places, as was attested by their family names, and had remained there of their own free will. Indeed, a high percentage of Falkland Islands families had lived there longer than Argentines in Argentina. They were a close-knit community with a specific identity; they had a strong sense of belonging to the islands and had developed a way of life and a form of society that were eminently suited to them.

6. For Argentina the way forward lay not in negotiation but in the total capitulation of the islanders, which would lead to the modern equivalent of the very type of situation that the Committee had been established to dissolve: that of a small country dominated by a ruthless overlord who cared little for the populace. As a democratically elected member of the Legislative Assembly, he had a strong mandate in support of the islanders' right to self-determination; accordingly he urged the Committee to recognize that right so that they could continue to live the life of their choice and not be swallowed up by an alien power that regarded them as impostors in their own land.

7. **Ms. Robertson** (Legislative Assembly of the Falkland Islands) said that she and the other democratically elected members of the Legislative Assembly regretted the Committee's repeated adoption of a draft resolution that was contrary to the principles enshrined in the Charter of the United Nations and contrary to the wishes of the Falkland Islanders. It represented an attempt by one party to the dispute to negotiate away the rights and freedoms of a people and a denial of the principle of self-determination.

8. There was no foreseeable prospect that the United Kingdom would agree to negotiate on the question of the sovereignty of the Falkland Islands. The Constitution of the Falkland Islands, like that of all British Overseas Territories, guaranteed the people's right to self-determination; it was therefore up to them to determine the issue of sovereignty for themselves. Argentina claimed that the principle of territorial integrity prevailed over that of self-determination. It therefore viewed annexation as the only acceptable solution to the dispute; that was contrary to the wishes of the islanders and consequently unacceptable to the United Kingdom.

9. There were only two ways in which resumption of negotiations between the two parties could lead to a peaceful solution: if the islanders' participation and agreement were sought, or if their right to self-determination was suppressed. Such suppression would violate the principles of justice and democracy which the United Nations purported to support but which, in the case of the Falkland Islands, were upheld only by the administering Power.

10. As for the principle of the non-use of force or the threat of force in international relations, Argentina's aggression against the Falkland Islands, particularly in the form of non-cooperation on fisheries and hydrocarbons agreements and the ban on charter flights across Argentine airspace, pre-empted any peaceful solution and appeared to be aimed at forcing the

islanders to accept what they did not want. Argentina claimed to be responding to what it called "unilateral" acts by the British Government, such as the extension of the Falkland Islands' fisheries licensing regime. In fact, those legitimate measures were the result of the Falkland Islands Government using its powers to serve the interests of the inhabitants and of the environment.

11. Resolutions on the questions of Gibraltar and the Falkland Islands were alone in referring not to the inalienable right to self-determination of the inhabitants but merely to the interests of the population. That was contrary not only to democratic principles but also — since October 2008 — to the position of the General Assembly, whose Fourth Committee had decided that the principle of self-determination should not cease to be applicable in cases where there was a dispute over sovereignty.

12. The purpose of the principle of territorial integrity was to prevent future break-ups of established States, not to resolve sovereignty disputes rooted in the past; it did not apply to the Falkland Islands which Argentina had occupied only briefly at a time when ownership of the islands was in dispute. The islands had never formed part of Argentina and had existed as a political entity long before the modern boundaries of Argentina had been established. Furthermore, there was a contradiction between the invocation of that principle and Argentina's proclaimed wish to end the current so-called colonial status of the islands. According to principle IX of General Assembly resolution 1541 (XV), the integration of a Non-Self-Governing Territory with its administering Power should be the result of the freely expressed wishes of the territory's peoples. Therefore, transfer of sovereignty to Argentina would fly against that criterion since the people of the Falkland Islands would never choose to be annexed by or integrated into Argentina.

13. With the end of the Second International Decade for the Eradication of Colonialism in sight, the conditions and criteria for determining the end of colonization must be re-examined as a matter of urgency. The new Constitution of the Falkland Islands, under which the Governor must accept the advice of the Executive Council on all matters other than defence and foreign affairs, was evidence of a continuously developing process of internal self-government and offered a possible fourth option, in addition to those set forth in principle VI of resolution 1541 (XV), for determining that a Non-Self-Governing Territory had achieved a full measure of self-government. Accordingly, she encouraged the Committee, when considering actions to be taken in the Third Decade, to take due note of such developments in the British Overseas Territories, including the Falkland Islands, having regard to the maturing status of the Territory's relationship with the United Kingdom.

14. It was becoming ever more anomalous that the Committee should make reference to a 200-year-old sovereignty dispute at the expense of the rights of inhabitants of a Non-Self-Governing Territory. She urged the Committee to consider whether that was truly in the spirit of the ethos and principles of the Charter of the United Nations.

15. *Mr. Stevens and Ms. Robertson withdrew.*

16. *At the invitation of the Chairman, Ms. Reynolds took a place at the petitioners' table.*

17. **Ms. Reynolds** said that she was a direct descendant of the Reverend Thomas Bridges, an Anglican vicar who had arrived in the Malvinas Islands in 1856 to work for the South American Missionary Society. The Mission's aim had been to civilize and to evangelize the indigenous population of Tierra del Fuego and members of the Mission had travelled there frequently and had brought indigenous families back to the Mission for English, religious and other instruction.

18. When the United Kingdom seized the islands in 1833, British settlers had expelled and discriminated against Argentine inhabitants to prevent them from settling in the islands, thus consolidating colonial rule, a situation that prevailed to the present day. Recognizing the fundamental difference between the Mission's objectives and those of the British occupation, the Reverend Bridges and other Mission members had relocated to Tierra del Fuego. Her family had continued, however, to visit the islands and had even contributed to the construction of an Anglican cathedral there.

19. It was hard to imagine stronger ties between the inhabitants of the islands and Argentine citizens, including those of British descent. Many British settlers, her ancestors included, had understood that, besides geographical proximity, powerful links united the islands with the Argentine mainland and had disagreed with the colonial Power's policy, of isolating the islands in order to thwart the Argentine Republic's

legitimate claim to sovereignty. Hundreds of thousands of Argentine citizens of British descent had contributed to Argentina's cultural life and lived in perfect harmony with Argentine citizens of other descent.

20. Both the islanders and their neighbours on the mainland would benefit enormously from an end to the current anachronistic situation. Under Argentine sovereignty, the islanders would enjoy, inter alia, better transport links and access to Argentine produce, as well as the same guarantees of respect for their way of life, language and customs as other Argentine citizens. The Committee should urge the United Kingdom to resume negotiations on the sovereignty of the Malvinas Islands, South Georgia Islands and South Sandwich Islands, in accordance with the relevant General Assembly resolutions.

21. *Ms. Reynolds withdrew.*

22. *At the invitation of the Chairman, Mr. Vernet took a place at the petitioners' table.*

23. **Mr. Vernet** said that his great-great-grandfather, Don Luis Vernet, had been appointed the first political and military commander of the Malvinas Islands in 1829. The decree establishing that commandership explained in part why Argentina continued to assert its legitimate claim to the islands today. The decree stated that, at the time of Argentina's separation from Spain, Spain owned the islands and that Argentina had inherited all the rights enjoyed by Spain over the islands. The islands had therefore belonged to Argentina even before Argentina's emergence as an independent nation.

24. The decree also entrusted the commander of the islands with ensuring that fishing regulations were respected. In 1831, Don Luis Vernet had seized three United States schooners for contravening such regulations. In response, the United States had undertaken a punitive expedition to the islands. A year later, the United Kingdom had seized the islands and had expelled the population.

25. Anyone who visited Argentina was sure to hear the name "Malvina" shouted from a window or to see children playing in a square called "The Argentine Malvinas". It was impossible for Argentine citizens to imagine their country without the Malvinas Islands.

26. The Argentine Constitution not only reiterated Argentina's firm belief in its right to the Malvinas Islands and its determination to recover them, it also contained a commitment, once it achieved that goal, to respect the way of life of the islands' inhabitants. He therefore called on the Committee to promote constructive dialogue between the United Kingdom and the Argentine Republic, in accordance with the relevant General Assembly resolutions, so that a peaceful, just and lasting solution to the sovereignty dispute might be found.

27. . *Mr. Vernet withdrew.*

28. **Mr. Taiana** (Observer for Argentina) said that it seemed ironic that, while the international community was working hard to find ways to tackle various challenges such as the international financial crisis and climate change, when it came to putting an end to colonialism the Committee's efforts to advance continued to be thwarted.

29. The situation of the Malvinas Islands was unlike any other, as the Committee itself had recognized. By occupying land, which had been under Argentine sovereignty the United Kingdom had violated the political unity and territorial integrity of the Argentine Republic. Its continued occupation of the islands therefore ran contrary to a fundamental principle laid down in the Charter of the United Nations and in General Assembly resolution 1514 (XV). The population had been expelled and replaced with an implanted foreign population which lived in isolation from the mainland. Such a population could never be considered to have been subjugated by a colonial power. In fact, it was both the instrument and the result of an act of usurpation by a colonial power.

30. The United Kingdom had confirmed the British nationality of the islands' population with the British Nationality Act of 1983. To claim that the principle of self-determination should be applied to such people would be a flagrant misrepresentation of logic, justice and law. The United Kingdom was calling for the application of the principle of self-determination while, at the same time, refusing to resume sovereignty negotiations with Argentina, thereby ignoring the mandate set forth, inter alia, in successive General Assembly resolutions. By saying that it would agree to resume negotiations only if the islands' inhabitants so wished, the United Kingdom was ignoring the will of the Member States of the Organization and introducing a unilateral precondition that had not figured in any of the resolutions on the subject.

31. Moreover, it was seeking to benefit from General Assembly resolution 1514 (XV), while, at the same time, ignoring the fact that the principle of territorial integrity was applicable to the question of the Malvinas Islands. It was for that reason that the resolutions on the question of the Malvinas Islands referred to the need to take due account of the interests of the population of the islands. It was worth noting that the Constitution of Argentina went even further, calling for respect for their way of life. Giving preference to the "wishes" of the population over the resumption of negotiations was simply an attempt to sidestep the United Nations call for the resumption of negotiations aimed at a fair, peaceful and definitive solution to the dispute.

32. The Argentine Republic was committed to the right of all peoples subject to foreign colonial domination to self-determination. However, it rejected the manipulation of that key principle by a Member State to favour a population that it had artificially implanted on land that was part of the territory of Argentina and which it had usurped by force. While his Government was seeking to recover full sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, it was prepared to comply with the obligation to resume sovereignty negotiations and had demonstrated as much. That obligation applied to both parties. His Government had also taken steps to cooperate with the United Kingdom on practical matters deriving from the de facto situation with a view to creating a framework conducive for the two parties to resume negotiations.

33. In spite of that, the United Kingdom had committed a number of unilateral acts in the disputed areas, such as the illegal extension of the fisheries licensing regime to include 25-year fishing quotas, the illegitimate granting of licences for hydrocarbon activities, and the refusal to operate charter flights between mainland Argentina and the Malvinas Islands, notwithstanding what had been agreed regarding the formula on sovereignty in an exchange of notes of 23 February 2001. The United Kingdom had also attempted to include parts of Argentine national territory in its submission to the Commission on the Limits of the Continental Shelf; such an inclusion was unlawful. Those acts violated General Assembly resolution 31/49, which called upon the two parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the islands were going through the process recommended by the United Nations. Another such unilateral act related to the coming into force of the new so-called "constitution" which was simply an attempt to present the colonial situation as something "modern" and "post-colonial" and to present the implanted British population as one to which the principle of self-determination should apply.

34. The United Kingdom was refusing to assume its international obligation and was seeking to justify itself by capricious interpretations of principles that were intended to bring justice to oppressed peoples. It would appear that it saw international obligations as applying to certain countries but not to others; that was unacceptable. If the United Kingdom believed that the challenges of the global community should be resolved through dialogue and cooperation, in accordance with United Nations resolutions, it should demonstrate that belief in the decolonization forums.

35. Noting that, after five years of difficult negotiations, the United Kingdom had decided not to continue putting obstacles in the way of a planned visit to the islands by relatives of Argentines fallen in the 1982 conflict, to attend the inauguration of a memorial to their loved ones, he expressed the hope that the United Kingdom would continue in that spirit of dialogue and comply, once and for all, with the many resolutions on the question.

36. Finally, he reiterated that his Government was prepared to negotiate on the basis of international law and the various resolutions on the question with a view to achieving a just and definitive resolution of the dispute.

Draft resolution A/AC.109/2009/L.8

37. **Mr. Muñoz** (Chile), introducing draft resolution A/AC.109/2009/L.8 on behalf of the sponsors, said that the presence, at the meeting, of a large number of representatives of Latin American countries underscored the interest of the countries of the region in finding a lasting solution to the question. Chile, like the other Latin American countries represented, supported Argentina's rights in the sovereignty dispute and considered bilateral negotiations between Argentina and the United Kingdom to be the only way forward. In that connection, he recalled the Declaration on the subject adopted at the recent session of the General Assembly of the Organization of American

States, and the Special Communication on Sovereignty in the Question of the Malvinas Islands issued at the eighteenth Ibero-American Summit of Heads of State and Government.

38. The persistence of colonial situations in the twenty-first century was an anachronism. Noting that there were no valid reasons for delaying the solution of the Malvinas Islands question any longer, he called on the parties to the dispute to resume negotiations with a view to finding a fair and definitive solution to the dispute concerning sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas. Lastly, he expressed the hope that the draft resolution would be adopted by consensus.

39. **Mr. Loizaga** (Observer for Paraguay), speaking on behalf of the member States and associated States of the Common Market of the South (MERCOSUR), reiterated the latter's support for the legitimate rights of the Argentine Republic in the sovereignty dispute over the Malvinas Islands.

40. Recalling that, at the recent MERCOSUR Summit, held in Salvador, Brazil, the Presidents of the member States and associated States of MERCOSUR had reaffirmed the terms of the Declaration on the Malvinas, adopted at Potrero de los Funes, in 1996, he said that that Declaration had noted that it was in the interests of the whole region for the prolonged sovereignty dispute to be resolved, in accordance with the resolutions of the General Assembly and the Organization of American States (OAS). They [the Presidents] had also noted that the adoption of unilateral measures was incompatible with General Assembly resolutions. In addition, they had reiterated that the inclusion of the Malvinas Islands, South Georgia Islands and South Sandwich Islands in the list of overseas countries and territories covered by part four of the Treaty establishing the European Community, was incompatible with the legitimate rights of the Argentine Republic and with the existence of a sovereignty dispute.

41. The member States and associated States of MERCOSUR supported the draft resolution and hoped that it would, once again, be adopted by consensus.

42. **Mr. Liu** Zhenmin (China) said that territorial disputes between States should be resolved through peaceful negotiations, in accordance with the spirit of the Charter of the United Nations. Accordingly, he hoped that the Governments of Argentina and the United Kingdom would continue to engage in constructive dialogue on the question of the Malvinas, adding that his delegation supported the draft resolution.

43. **Ms. Sulimani** (Sierra Leone) said that pursuant to article 73 of the Charter an administering power must recognize that the interests of the inhabitants of a non-self-governing Territory were paramount and that it had an obligation to promote to the utmost the well-being of such inhabitants. The population of the Falkland Islands should therefore be allowed to exercise their right to self-determination. The Governments of Argentina and the United Kingdom should engage in sustained dialogue, with a view to finding a peaceful, just and durable solution to the sovereignty dispute, taking into account the views and wishes of the islanders.

44. **Mr. Dolgov** (Russian Federation) said that his delegation supported the draft resolution before the Committee and hoped that it would be adopted without a vote. Argentina and the United Kingdom should find a solution acceptable to both parties through bilateral negotiations, in accordance with the relevant General Assembly resolutions.

45. **Mr. Ja'afari** (Syrian Arab Republic) said that the position of the Syrian Arab Republic was in line with the positions taken over the years by the Group of 77 and China and the Non-Aligned Movement, which reaffirmed that regional unity was a sacred principle in the resolution of territorial disputes. Accordingly, his delegation supported the draft resolution and hoped that it would be adopted by consensus. The Governments of Argentina and the United Kingdom should resume their dialogue in order to achieve a solution to the dispute over the sovereignty of the islands with due respect for the territorial integrity of Argentina.

46. **Mr. Valero Briceño** (Bolivarian Republic of Venezuela) reiterated his delegation's support for Argentina's just claim of sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, and its belief that bilateral negotiations were the appropriate path to a solution of the colonial situation and expressed the hope that the draft resolution would be adopted by consensus.

47. Finally, he encouraged the Secretary-General to use his good offices to bring the parties together.

48. **Mr. Moreno Fernández** (Cuba) said that, in the view of his delegation, the disputed territories belonged to Argentina. He therefore urged the United Kingdom to enter into the negotiations Argentina had repeatedly offered to re-start on sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, and to abstain from any further unilateral acts. Finally, he expressed the hope that the draft resolution would be adopted by consensus.

49. **Mr. Kleib** (Indonesia), noting that the case of the Falkland Islands (Malvinas) was not a traditional decolonization issue, said that it must be resolved through peaceful negotiations, in the best interests of the population. Accordingly, he expressed the hope that the draft resolution would be adopted by consensus.

50. **Mr. Solón-Romero** (Plurinational State of Bolivia) said that the principle at issue was not one of self-determination but rather one of national unity and territorial integrity. The United Kingdom had occupied the Malvinas Islands by force and had expelled the original population. The reluctance on the part of the United Kingdom, a State with a privileged position on the Security Council, to enter into talks with Argentina on sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas confirmed his delegation's belief that permanent membership in the Council was no guarantee of respect for the need to find a peaceful end to conflicts and, as such, should be ended.

51. His delegation once more called for a negotiated solution to colonial situations and expressed the hope that the draft resolution before the Committee would be adopted by consensus.

52. **Ms. Espinosa** (Ecuador) said that her delegation strongly supported Argentina's legitimate right to sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas. The case in question was different from other decolonization cases for it involved the principle of territorial integrity and respect for the sovereignty of States which, in the view of her delegation, were of paramount importance in international relations.

53. **Ms. Williams** (Grenada) said that her delegation would like to see the draft resolution adopted by consensus and she urged the two parties to the dispute to resume talks in bilateral forums.

54. **Mr. St. Aimee** (Saint Lucia) said that, although he was not proposing any change, his delegation would have preferred to see the final preambular paragraph included as an operative paragraph, in order to highlight the importance of General Assembly resolutions on the subject and of the need to take due account of the interests of the people.

55. *Draft resolution A/AC.109/2009/L.8 was adopted.*

56. **Mr. Snoussi** (Tunisia) welcomed the adoption by consensus of the draft resolution, and expressed the hope that Argentina and the United Kingdom would return to the negotiating table to find a peaceful and lasting solution to the conflict.

The meeting rose at 1.10 p.m.